

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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In Re: CenturyLink Sales  
Practice and Securities  
Litigation

)  
) File No. 17-MD-2795  
) (MJD/KMM)  
)

) Minneapolis, Minnesota  
) August 25, 2020  
) 10:03 a.m.  
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Benjamin Craig, et al,  
Plaintiffs,

)  
) File No. 18-CV-296  
) (MJD/KMM)  
)

) Minneapolis, Minnesota  
) August 25, 2020  
) 10:03 a.m.  
)

vs.  
CenturyLink, Inc., et al.,  
Defendants.

)  
) VIA ZOOM CONFERENCE  
)  
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BEFORE THE HONORABLE KATHERINE MENENDEZ  
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

**(MOTIONS HEARING)**

Proceedings reported by court reporter; transcript  
produced by computer.

\* \* \* \* \*

APPEARANCES

For the Plaintiffs: Bernstein Litowitz Berger &  
Grossman, LLP  
MICHAEL D. BLATCHLEY, ESQ.  
44th Floor  
1251 Avenue of the Americas  
New York, NY 10020

For the Defendants: Cooley LLP  
PATRICK E. GIBBS, ESQ.  
3175 Hanover Street  
Palo Alto, CA 94304

Cooley LLP  
RYAN BLAIR, ESQ.  
4401 Eastgate Mall  
San Diego, CA 92121

Cooley LLP  
SARAH M. LIGHTDATE, ESQ.  
55 Hudson Yards  
New York, NY 10001

Winthrop & Weinstine, PA  
THOMAS H. BOYD, ESQ.  
WILLIAM A. MCNAB, ESQ.  
225 6th Street  
Suite 3500  
Minneapolis, MN 55402-4629

Court Reporter: MARIA V. WEINBECK, RMR-FCRR  
1005 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, Minnesota 55415

\* \* \* \* \*

1                                   P R O C E E D I N G S

2                                   IN OPEN COURT

3                                   (10:03 a.m.)

4                   THE COURT: All right. Let's go ahead and get  
5 started. Who do we have that's going to be addressing the  
6 Court on behalf of the plaintiffs?

7                   MR. BLATCHLEY: Good morning, Judge. Mike  
8 Blatchley from Bernstein Litowitz on behalf of plaintiffs.

9                   THE COURT: All right. Welcome, Mr. Blatchley.  
10 Can you introduce any other members of the plaintiffs' team  
11 that are on the line?

12                  MR. BLATCHLEY: I'm sorry, I don't have a complete  
13 roster in front of me. I believe Keil Mueller from the  
14 Stoll Berne firm is on.

15                  THE COURT: Keil, is that right?

16                               (No response).

17                  THE COURT: Okay. How about let's do it this way,  
18 if we have other counsel on from the plaintiffs' side, why  
19 don't you go ahead and name yourselves.

20                               (No response.)

21                  THE COURT: Okay. Well, let's go ahead and pivot  
22 to counsel for the defendant.

23                  MR. GIBBS: Good morning, Your Honor. This is  
24 Patrick Gibbs from Cooley speaking for the defendants. We  
25 should also have on the line Sarah Lightdale, Ryan Blair,

1 Brian Koch, all from Cooley, and then I believe either or  
2 both Mr. McNab or Mr. Boyd from the Winthrop Weinstine firm.

3 (Indiscernible speakers)

4 MR. MCNAB: Yep, and Bill McNab here, Your Honor.

5 THE COURT: Okay. I think I lost somebody between  
6 Mr. Koch and Mr. McNab. Who else was listed there? I have  
7 Sarah Lightdale, Ryan Blair, Brian Koch, Bill McNab. Who  
8 else?

9 MR. BOYD: Your Honor, Tom Boyd is also on the  
10 line.

11 THE COURT: Welcome. All right. Is there anyone  
12 on for the defendants that we didn't get names?

13 Anyone else on from the plaintiffs other than Mr.  
14 Blatchley?

15 All right. Let's go ahead and get started. This  
16 is going to be a brief call or relatively brief call. I  
17 really appreciate the e-mail that you all sent ahead of the  
18 call outlining the things that you wanted to discuss.

19 So why don't we start with the question about  
20 depositions. It's my understanding, and I might have  
21 misapprehended this, but the question is about whether I  
22 need to bless remote depositions or whether you can go ahead  
23 and notice those and agree to those without my involvement.

24 Let's go with Mr. Gibbs first, I guess, just  
25 randomly. Am I correctly understanding what the nature of

1 that question is?

2 MR. GIBBS: I think so. Although, I would clarify  
3 it just a little bit, and it happens to be an issue that we  
4 raised on our side, so I'm happy to explain why we raised  
5 it.

6 THE COURT: Go ahead. Yes.

7 MR. GIBBS: I'm actually not concerned about the  
8 parties at all. I think the parties all understand what we  
9 need to do, and there's no disagreement about that.

10 My concern actually had to do with what I expect  
11 to be a decent number of third parties who are likely to be  
12 deposed, and so those people will be getting served with  
13 third party subpoenas under Rule 45. And I was looking back  
14 at Rule 45, and it's just -- it clearly contemplates a  
15 subpoena directing someone to show up at a physical location  
16 to have their deposition taken, and it doesn't clearly say  
17 that the Court can issue a subpoena. It says you have to  
18 show up on a video conference.

19 So the question we raised and thought we would  
20 raise with the Court is whether it would be appropriate for  
21 the Court to enter an Order just making clear that in this  
22 case given the ongoing pandemic and various other  
23 (indiscernible) orders in place, that the parties are  
24 authorized to issue Rule 45 subpoenas that direct third  
25 party witnesses to appear by video conference.

1 THE COURT: Okay. Mr. Blatchley, any objection to  
2 that?

3 MR. BLATCHLEY: No, Your Honor. And I think we  
4 had discussed prior to the call that we were in total  
5 agreement that we would like depositions to proceed  
6 remotely. Third party depositions as well, so long as we're  
7 kind of operating under the Covid conditions.

8 THE COURT: Right. Well, I couldn't agree more  
9 strongly that it makes sense to have as many depositions as  
10 possible remotely right now. You all know just as well as I  
11 do that as much as we had hoped we would be in a different  
12 position by now, we're not. Cases continue to spread and  
13 whenever people can make accommodations that emphasize  
14 safety, I am completely supportive of that. And I  
15 appreciate your cooperativeness between counsel about making  
16 that happen.

17 I don't know that I think that any order is  
18 necessary, but I hear and appreciate your concern. And so I  
19 think we will do some sort of text-only order just noting  
20 that in light of the pandemic that we're interpreting  
21 Rule 45 to permit notification for video or remote  
22 depositions as well as more traditional in-person  
23 depositions.

24 Let's jump to the second issue since that one was  
25 so smoothly handled, and my fingers are crossed that the

1 next one will be as well. It sounds like you all are going  
2 to be filing a stipulation about adjusting the case  
3 schedule.

4 Mr. Blatchley, you want to take this one on?

5 MR. BLATCHLEY: Sure, Your Honor. I actually  
6 think that we or the defendants filed a proposed schedule  
7 and proposed order this morning. Apologies that hasn't hit  
8 your desk yet. But essentially the proposed schedule that  
9 the parties have agreed to pushes pretty much every deadline  
10 out in the case that we originally had previously by  
11 approximately four months, which was effectively a move  
12 that, you know, mirrored the delay and the substantial  
13 completion deadline. And, you know, in light of that fact,  
14 the delay is substantial completion deadline as well as kind  
15 of the ongoing logistical difficulties that we were just  
16 discussing related to Covid. I think the parties agree, and  
17 it made sense to push the schedule out by those dates and  
18 that's in the proposed order that we submitted to Your  
19 Honor.

20 THE COURT: Okay, I did just see that. Thank you  
21 for flagging that for me. I pulled it up on the docket now.  
22 I will take a look. I doubt that I'm going to have any  
23 concern. I'll likely run it by Judge Davis too to make sure  
24 that he has no concern, but, you know, given that you've  
25 proceeded by stipulation, that is always my strong

1 preference, and it's very likely that we'll get that order  
2 entered in the next day or two. And that seems pretty  
3 self-explanatory, I don't think we need to discuss anything  
4 related to that.

5 Mr. Blatchley, anything else on your agenda that  
6 you would like to talk about today?

7 MR. BLATCHLEY: No, Your Honor. I mean I would  
8 just flag for the Court, I don't think there's anything ripe  
9 yet that we wanted to raise with Your Honor. We certainly  
10 didn't discuss anything with the defendants beforehand. We,  
11 obviously, are continuing to engage in a dialogue with the  
12 defendants about numerous discovery disputes that we're  
13 having on document requests, interrogatories, privilege and  
14 redaction, but there's nothing for us to raise with Your  
15 Honor today.

16 THE COURT: Okay. Mr. Gibbs, anything from your  
17 perspective?

18 MR. GIBBS: No, Your Honor. Not for today.

19 THE COURT: Okay. I think we have another one of  
20 these conferences set for a couple of months down the road.  
21 I will keep that in place but you all certainly know how to  
22 reach out to me to discuss things that might arise in the  
23 meantime.

24 I will take a look at your joint stipulation and  
25 the schedule and get that entered quickly as well as doing



1 something on the record to bless the remote third party  
2 depositions just in case that's necessary. And I think that  
3 concludes our business for today.

4 So I really appreciate you all having e-mailed me  
5 yesterday. That helps me very much understand what is going  
6 to be discussed, and I encourage you to do that again in the  
7 future and that's it. Thank you. We are in recess.

8 (Court adjourned at 10:12 a.m.)

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11 **REPORTER'S CERTIFICATE**

12 I, Maria V. Weinbeck, certify that the foregoing is  
13 a correct transcript from the record of proceedings in the  
14 above-entitled matter.

15 Certified by: s/ Maria V. Weinbeck

16 Maria V. Weinbeck, RMR-FCRR  
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